

requirements of applicable portions of Title 5, United States Code, this part, and part 251, and shall report its findings to the Panama Area Personnel Board.

§ 253.7 Deviations.

Whenever strict compliance with the letter of the regulations in this part would create practical difficulties or undue hardships, the Panama Area Personnel Board may permit a deviation from these regulations. Such authority may be exercised only if the deviation is within the spirit of the regulations, and the efficiency of the U.S. Government and the integrity of the Panama Canal Employment System are protected and promoted. Any deviation authorized, and the reasons therefor, shall be made a matter of record.

§ 253.8 Exclusions.

(a) Pursuant to the provisions of § 253.4(b), the positions specified by paragraphs (b), (c), (d), and (e) of this section, and incumbents thereof, are excluded, to the extent indicated, from the provisions of Subchapter II and the regulations in this part, with the exception of § 253.47, and in part 251 of this chapter.

(b) The following positions are excluded from all the provisions of subchapter II (except sections 1217 and 1218) and from the regulations in this part and in part 251 of this chapter (except for §§ 251.25, 251.31 and 251.32 of this chapter):

(1) The Administrator, Deputy Administrator, Chief Engineer, Chief Financial Officer, Inspector General, Assistant to the Chairman and Secretary, and Assistant to the Secretary for Congressional Affairs of the Panama Canal Commission.

(2) Persons in the active military, naval, or public health service of the United States appointed to the Panama Canal Commission.

(3) Consultants and experts when employed under the provisions of 5 U.S.C. 3109 or other statutory authority.

(4) Any employee excluded by 5 U.S.C. 2105(c) from coverage under laws administered by the Office of Personnel Management.

(5) The Ombudsman.

(6) Positions in the Panama Canal Commission and the incumbents thereof, if a substantial portion of the duties and responsibilities are performed in the United States. All of the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service, except Title 5 U.S. Code, Chapter 43 pertaining to performance appraisal, are extended to the incumbents of such positions, other than the Secretary and the Assistant to the Secretary for Congressional Affairs of the Panama Canal Commission.

(c) The following positions, and the incumbents thereof, are excluded from the provisions of section 1212 of the Panama Canal Act which provide for merit selection for employment, section 1213 of the said Act and Subparts B and C of the regulations in this part:

(1) Attorneys.

(2) Positions designated as fee-rate positions within the Special Category established by § 251.24.

(3) Positions requiring part-time or intermittent services in which the individual appointee will receive during his service year compensation that aggregates not more than 40 percent of the annual salary rate for the first step of grade 3 in the applicable Non-Manual schedule.

(4) Positions designated by the agency as appropriate for use as Student Trainee positions and which are filled under a cooperative work-study agreement between an agency and a college or university approved for participation in such a program by the agency.

(5) Positions that are filled by mentally retarded or severely physically handicapped persons pursuant to regulations issued by the agency. Such regulations shall conform, in substance, to those utilized to authorize appointment of the aforesaid classes of persons in Federal employment in the United States.

(6) The positions in the Panama Canal Commission of Deputy Chief Engineer and Associate Ombudsman.

(7) Student assistant positions.

(8) Any service employee assigned to the residence of the Administrator of the Panama Canal Commission when so designated by the Administrator.

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(9) Liaison Services Specialists of the General Services Bureau of the Panama Canal Commission.

(10) Positions at non-manual grade 5 and grade 7 level (not to exceed 35 in number) designated for use by the Panama Canal Commission for filling positions in the Professional and Administrative Career Intern Program with high-potential Panamanian citizens.

(d) All Bureau Directors and Heads of Independent Units of the Panama Canal Commission are excluded from the provisions of sections 1212, 1213, 1215 and 1216 of subchapter II, subparts B and C of this part and subpart B of part 251, except for §§ 251.25, 251.31 and 251.32 of this chapter.

(e) Positions of student assistant, apprentice and learner, and the incumbents thereof, are excluded from the provisions of section 1225(b)(2) of the Panama Canal Act.

(5 U.S.C. 5102, E.O. 12173, 12215)

[47 FR 12956, Mar. 26, 1982, as amended at 49 FR 41025, Oct. 19, 1984; 51 FR 25693, July 16, 1986; 51 FR 33262, Sept. 19, 1986; 51 FR 37182, Oct. 20, 1986; 54 FR 4019, Jan. 27, 1989; 56 FR 1924, Jan. 18, 1991; 56 FR 40556, Aug. 15, 1991]

PANAMA CANAL BOARD OF APPEALS

§ 253.11 Establishment; composition; appointment of members; alternates; employees.

(a) There is established a Panama Canal Board of Appeals to review and determine the classification appeals of employees.

(b) The Board shall consist of five members, all of whom shall be civilians employed by the Federal Government and appointed by the Assistant Secretary of the Army as follows:

(1) One member shall be nominated by the Office of Personnel Management.

(2) Two members shall be selected from among employees of U.S. Government agencies in the Republic of Panama (one from a Department of Defense agency and the other from the Panama Canal Commission) and shall be appointed only after appropriate consultation with the advice from organizations representing such employees.

(3) The remaining members (one from Department of Defense and one from

Panama Canal Commission) will be selected by the Assistant Secretary of the Army.

(c) The Assistant Secretary of the Army shall appoint one of the members as Chairman of the Board.

(d) For each member of the Board, two alternate members shall be appointed, following the same criteria as for appointment of members. An alternate shall serve on the Board whenever the member for whom he is the alternate is unable to serve for any reason.

(e) The Panama Area Personnel Board will provide administrative and logistical support necessary to accomplish Board functions.

§ 253.12 Decisions of the Board.

(a) Decisions of the Board on any question or other matter relating to an appeal shall be made by majority vote of its members.

(b) Decisions of the Board are final and conclusive and the agency concerned shall take action in accordance with the decision.

§ 253.13 Classification appeals.

(a) Any employee may request at any time that his employing agency review and revise or adjust the classification, grade, and pay level of his position, or any of them, as the case may be. Such requests for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established procedures of the employing agency.

(b) In the event of adverse classification decision by the employing agency, an employee shall have the right to appeal, in writing, to the Panama Canal Board of Appeals.

§ 253.14 Terms of members.

The term of service for each member or alternate member of the Panama Canal Board of Appeals shall be for 2 years, provided that the Assistant Secretary of the Army may, in his discretion, terminate or extend the term of service of any member or alternate member at any time. Individuals who are designated as members or alternate members shall be detailed to the Panama Canal Board of Appeals for such periods as their services are required.